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July 12, 2018

VIA FEDERAL EXPRESS

Hon. Tina E. Sinnen, Clerk  
Virginia Beach Circuit Court  
2425 Nimmo Parkway  
Building 10 & 10B, 3rd Floor  
Virginia Beach, VA 23456-9017

Re: Evelyn Dixon v. Wendy's Properties, LLC, et al.  
In the Circuit Court for the City of Virginia Beach  
Case No. CL18-2835

Dear Ms. Sinnen:

Enclosed for filing on behalf of Wendy's Properties, LLC, Delight VA Beach, LLC, Wendy's International, Inc., Wendy's International, LLC, Quality is Our Recipe, LLC, The Wendy's Company and Wendy's Restaurants, LLC is Defendants' Answer to Plaintiff's Complaint.

Thank you for your assistance in this matter and should you have any questions about the enclosed, please contact me at your convenience.

Truly yours,

A handwritten signature in dark ink, appearing to read 'James M. Snyder'. The signature is fluid and cursive, with the first name 'James' being the most prominent part.

James M. Snyder

Enclosure

cc: John B. Gaidies, Esquire (via facsimile and U.S. Mail; w/encl.)

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF VIRGINIA BEACH

EVELYN DIXSON,

Plaintiff,

v.

Case No. CL18-2835

WENDY'S PROPERTIES, LLC,

DELIGHT VA BEACH, LLC,

WENDY'S INTERNATIONAL, INC.,

WENDY'S INTERNATIONAL, LLC,

QUALITY IS OUR RECIPE, LLC,

THE WENDY'S COMPANY,

WENDY'S RESTAURANTS, LLC,

Defendants.

DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

WENDY'S PROPERTIES, LLC, DELIGHT VA BEACH, LLC, WENDY'S INTERNATIONAL, INC., WENDY'S INTERNATIONAL, LLC, QUALITY IS OUR RECIPE, LLC, THE WENDY'S COMPANY, and WENDY'S RESTAURANTS, LLC, (collectively "Defendants"), by counsel, for their Answer to Plaintiff's Complaint, state as follows:

1. Defendants admit Wendy's Properties, LLC was the owner and operator of the Wendy's Restaurant located at 1410 Kempsville Road, Chesapeake, Virginia 23230 on June 23, 2016. Defendants further admit Wendy's Properties, LLC and Delight VA Beach, LLC are properly qualified to conduct business in the Commonwealth of Virginia. Defendants deny the remaining allegations contained in Paragraph 1 of Plaintiff's Complaint.

2. Paragraph 2 of Plaintiff's Complaint is a statement of law, to which no response is required. To the extent a response is required, Defendants deny any allegations contained in Paragraph 2 of Plaintiff's Complaint that are inconsistent with the law of the Commonwealth of

Virginia. Defendants specifically deny any named entity, except for Wendy's Properties, LLC, owned or operated 1410 Kempsville Road, Chesapeake, Virginia 23230 on June 23, 2016.

3. Defendants deny the allegations contained in Paragraph 3 of Plaintiff's Complaint.

4. Defendants deny the allegations contained in Paragraph 4 of Plaintiff's Complaint.

5. Defendants deny the allegations contained in Paragraph 5 of Plaintiff's Complaint.

6. Defendants deny the allegations contained in Paragraph 6 of Plaintiff's Complaint.

#### **AFFIRMATIVE DEFENSES**

7. Defendants deny any allegations contained in Plaintiff's Complaint not specifically admitted herein.

8. Defendants deny they were guilty of any act or acts of negligence or the breach of any duty they may have owed Plaintiff or that such acts or omissions proximately caused the alleged injuries or damages.

9. The incident and any damages are the result of acts or omissions of others for whom Defendants are not responsible, and/or a cause or causes over which Defendants had no control and for which they are not responsible in law to Plaintiff.

10. Defendants will rely upon the defense that Plaintiff was negligent and such negligence was a proximate cause of the accident and injuries claimed, thereby barring her claim.

11. Plaintiff failed to mitigate her damages and losses, if any.

12. Defendants deny it had a duty to warn Plaintiff, as the condition that allegedly caused Plaintiff to fall, if any, was open and obvious.

13. Defendants deny any sum is owed Plaintiff by them or that Plaintiff has been injured or damaged to the extent alleged.

14. Defendants reserve the right to assert at trial any and all properly provable defenses they may have to this action as may appear through discovery or at trial.

WHEREFORE, WENDY'S PROPERTIES, LLC, DELIGHT VA BEACH, LLC, WENDY'S INTERNATIONAL, INC., WENDY'S INTERNATIONAL, LLC, QUALITY IS OUR RECIPE, LLC, THE WENDY'S COMPANY, and WENDY'S RESTAURANTS, LLC, by counsel, deny they are liable to Plaintiff in any amount whatsoever and move that this action be dismissed and for all further relief this Court deems appropriate and just.

A trial by jury is requested.

WENDY'S PROPERTIES, LLC,  
DELIGHT VA BEACH, LLC,  
WENDY'S INTERNATIONAL, INC.,  
WENDY'S INTERNATIONAL, LLC,  
QUALITY IS OUR RECIPE, LLC,  
THE WENDY'S COMPANY, and  
WENDY'S RESTAURANTS, LLC

By   
Counsel

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CERTIFICATE OF SERVICE

I hereby certify the foregoing was delivered via facsimile and U.S. Mail this 12th day of July, 2018, to the following:

John B. Gaidies, Esquire  
Joynes & Gaidies  
502 Viking Drive, Suite 201  
Virginia Beach, Virginia 23452  
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*Counsel for Plaintiff*



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